IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 7TH AUGUST 2007 / 16TH SRAVANA 1929

Crl.MC.No. 2524 of 2007()

CC.490/2005 of JUDL.MAGISTRATE OF FIRST CLASS-II, ERNAKULAM

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PETITIONER: ACCUSED:

P.L. NAVIS, AGED 66 YEARS,
S/O. LEONS, MANAGER & FOREMAN, THE MUTUAL AID
BANKERS, CHITTOOR ROAD, ERNAKULAM, COCHIN-682 018.

BY ADV. SRI.BABU CHERUKARA
SRI.V.R.ARUN

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No.2524 OF 2007

Dated this the 7th day of August, 2007

ORDER

The petitioner is the accused in a prosecution under Sec.225(b) of the IPC. The trial is over. The matter stood posted for judgment. On two occasions the petitioner did not appear and applied to excuse his absence. The court indulgently allowed those requests. But on the third occasion, when the request was repeated, the petition was dismissed and a non-bailable warrant of arrest has been issued against the petitioner. That warrant of arrest is now chasing the petitioner. According to the petitioner, he is absolutely innocent. His failure/omission to appear before the learned Magistrate was not wilful. In these circumstances, the petitioner is now willing to appear before the learned Magistrate and receive the judgment. But the petitioner apprehends that when he appears and applies for bail, his application may not be

considered on merits, in accordance with law and expeditiously. The judgment may not be pronounced on that day. Consequently, he may be remanded to custody. He may be compelled to remain in custody unnecessarily.

2. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

3. The case now stands posted to 8/8/07. The petitioner can appear before the learned Magistrate and apply for bail. If the judgment is ready, the learned Magistrate must pronounce and pass appropriate orders on the application for bail and also application for suspension of sentence, if any, such sentence be imposed.

4. In the result, this Crl.M.C. is dismissed; but with the

above directions and the observation that if the petitioner surrenders before the learned Magistrate and seeks bail after, giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

5. Hand over a copy of this order to the learned counsel for the petitioner.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge